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4 718-547-9675

5 UNITED STATES COURT FOR THE
6 EASTERN DISTRICT OF NEW YORK

7 LUCIO CELLI,
8 Appellant/Petitioner/Defendant,
9 vs.
10 United States of America,
11 Appellee/Respondent/Plaintiff

Case No.: 19-cr-00127

MOTION FOR FRAUD UPON THE COURT: BIAS JUDGE

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ NOV 29 2021 ★
BROOKLYN OFFICE



12 Dear Judge Engelmayer,

13 I knew that Your Honor would commit "fraud upon court,"
14 which is the reason that I sent the Republican Senators an audio
15 recording of you and documents you ignored. Please accept this
16 as my pre-rule 60 motion or my rule 60 motion because Your Honor
17 understands that I am pro se litigant, the criminal case has
18 ended.

19
20 **First Issue: Fraud Upon the Court**

21 Your Honor was not a neutral arbiter as required by the
22 Due Process Clause of the 5th and 14th Amendment. According to
23 the 2d. Cir., "fraud on the court will, most often, be found
24 where the fraudulent scheme defrauds the "judicial machinery"
25 or is perpetrated by an officer of the court such that they
cannot perform its function as a neutral arbiter of justice.
See *Martina Theatres Corp. v. Schine Chain Theatres, Inc.*, 278
F.2d 789, 801 (2d. Cir. 1980)

- 26 1. I sent Sen. Schumer's automated response to congress
27 because Your Honor received emails from me too. I state
28 this under the penalty of perjury pursuant to 28 USC §
1746

MOTION FOR FRAUD UPON THE COURT: BIAS JUDGE - 1

- 1 2. Your Honor used your knowledge contained in the emails to
2 intimate me, which you did not address prior to sentencing
and I sent all document under seal too
- 3 3. Your Honor deprived me of my own intent and allowed Mr.
4 Silverman to deprive me of my own intent, which is a
5 crime—according to the 80 DOJ personnel and it was a
6 letter not addressed by Judge Donnelly (I figured Your
7 Honor had received an accurate file) —and I informed Your
8 Honor that it is a structural error, as well
- 9 4. I audio recorded Your Honor's voice, so congress (AUSA
10 Karamigious omitted) could hear how you intimidated me. I
11 state this under the penalty of perjury pursuant to 28 USC
12 § 1746
- 13 5. Your Honor allowed AUSA Karamigious to knowingly lie about
14 Federal Rules of Evidence and called me liar without
15 hearing any evidence—I know of cases where AUSA and a
16 federal judge both prosecuted, but I do not any DOJ
17 personnel telling me this
- 18 6. Your Honor knowingly allowed Mr. Silverman to lie about
19 "third-party witnesses" because you received many of the
20 same emails Sen. Schumer did.
- 21 7. I sent congress certain documents with audio-recordings to
22 show that I have not received a fair trial in the 2d. Cir.
- 23 8. Your Honor knew that Mr. Silverman did not write my intent
24 down in the briefs and now congress can, if they wanted
25 too, investigate Sen. Schumer's emails to know my intent
26 too because you received my emails too
- 27 9. Therefore, Your Honor knew that Mr. Silverman labored
28 under a conflict of interest
10. Your Honor knew Mr. Silverman stole over \$30,000
because you said, "you will not receive just here" because
this helps Randi Weingarten and Judge Cogan to retaliate
against me—which is something DOJ personnel told me
too...the analysis is, "Did Mr. Silverman redo bail
hearing with evidence or ignored evidence known to him"
because Judge Hurely said the facts, as they are the same
to the ones in McCrudden as in mine, were enough not to
detain McCrudden, which is the reason that I was detained
and I did not receive my retro money.
11. Let's be clear with what the DOJ told me, Chief Judge
Livingston, Judge Lanhier, Judge Brodie and the other one
could claim lack of knowledge because they could claim
that they did not see the 501(b)-tax return or knew the
website was funded by the 501(b)
 - a. I provided Your Honor with knowledge of the tax
return (well only one)

b. I provided Your Honor with knowledge of the fact that 501(b) funds the website

c. I informed Your Honor that collection of taxes by a judge is a ministerial duty and provides no discretion

12. I sent congress that my appeal will focus on structural errors, like choice of lawyer

a. The scheme is to place "ineffective assistance of counsel" as the reason because this will be dismissed

b. But the claim of structural error for choice of lawyer is an automatic reversal

13. Please see what is under seal for further allegations and these papers are all under seal to prevent the public from knowing that Your Honor used his office to deprive of a fair trial, to help Randi Weingarten/UFT, and to cover up crimes...facts do not change, only discretion

Second Issue: I believe that either 2d. Cir. Judicial Council¹ decide, or Judicial Conference or another circuit that is not, in anyway, influenced by Sen. Schumer should decide my motions because of "appearance"

Federal appellate courts' ability to assign a case to a different judge and it rests not on the recusal statutes alone, but on the appellate courts' statutory power to "require such further proceedings to be had as may be just under the circumstances," 28 U.S.C. § 2106 ." Liteky v. United States, ___ U.S. ___, ___, 114 S.Ct. 1147, 1156-57 (1994). **Thus we are empowered to "direct the entry of such appropriate . . . order. . . as may be just under the circumstances,"** 28 U.S.C. § 2106 (1994), including reassignment of the case where, in the language of 28 U.S.C. § 455(a) (1994), the district judge's "impartiality might reasonably be questioned." See Dyas v. Lockhart, 705 F.2d 993, 997-98 (8th Cir.) (remanding to another district judge to assure the appearance of impartiality, notwithstanding that appeal was from court's failure to recuse sua sponte and the issue was never raised in the district court), cert. denied, 464 U.S. 982 (1983). See also Ligon v. City of New York, 736 F.3d 118 (2d Cir. 2013)

¹ Not a good idea as it is filled with Sen. Schumer's people
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4 Your Honor prevented me from ligating all claims because
5 Randi Weingarten paid you and/or were influenced by Sen.
6 Schumer, which is the reason Your Honor hid my intent document
7 from the public.

8 There is document where I informed Your Honor that you and
9 Mr. Silverman prevented me from fully and fairly presenting my
10 case. See State Street Bank v. Inversiones Errazuriz, 374 F.3d
11 158 (2d Cir. 2004)

12 Please Take Notice, Rule 60 looks at the integrity of the
13 process.

14 Please Take Further Notice, the appearance is that Your
15 Honor conspired with Randi Weingarten, Sen. Schumer, Mr.
16 Silverman, and Judge Cogan.

17 Please Take EVEN Further Notice, my opinion is worthless,
18 BUT those of the DOJ carry weight

19 The fraud Your Honor committed:

20 1. Not answering motions is misconduct in all circuits and I
21 have many opinions.

22 a. Many of those motions either helped Randi Weingarten
23 or Sen. Schumer

24 2. Allowed AUSA Karamigious to lie about US Marshalls'
25 statement under the Federal Rules of Evidence

26 a. DOJ reports²
27

28 ² Not really reports but paragraphs about misconduct either on the Inspector General's website or
Professional Responsibility Office. They are mostly without names too
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- 1 b. Judicial reports, which I cited for Your Honor
- 2 3. Allowed AUSA Karamigious to work on a case without a waiver
- 3 because of the conflict
- 4 4. Allowed Mr. Silverman impeded me from filing a cause of
- 5 action under Administrative Procedure Act because of the
- 6 conflict
- 7 5. Your Honor and Mr. Silverman conspired with Randi
- 8 Weingarten and Judge Cogan to deprive me of over \$30,000,
- 9 which means you stole from me. Remember, this is about bail
- 10 6. Your Honor entered a judgement after you practice law in,
- 11 as you know that moment, which is under seal, Your Honor,
- 12 you lost jurisdiction
- 13 7. I sent the Republican senator and a few democratic senators
- 14 that automatic response, which Your
- 15 a. Your Honor knew Mr. Silverman lied about "third-party
- 16 witnesses"
- 17 b. Your Honor did not allow me to explain that Mr.
- 18 Silverman lied, but it is obvious to everyone that
- 19 Your Honor did not allow me because you knew he lie,
- 20 as you received the same email.
- 21 8. Mr. Silverman blocked me from the 2d. Cir. for mandamus,
- 22 which is a crime and I cited the case law
- 23 a. I have the audio-recording to provide
- 24 9. Again, Your Honor used the knowledge in the emails sent to
- 25 you to intimidate me into a guilty plea
- 26 a. Again, I sent automatic response to the senators
- 27 b. Again, Your Honor did not place on the record the need
- 28 not to rescue yourself because Randi Weingarten paid
- you, like Judge Marrero
- c. Again, I have over 80 DOJ personnel who said that what
- Judge Donnelly was did to me, by telling what my
- intent is, is a crime and Your Honor did the same

1 10. Probation Officer Greene is blocking me from the
2 court, as it is duty to inform Chief Livingston of altered
3 transcript by Your Honor and Judge Donnelly.

4 a. I do not appreciate when he lied to me and said that
5 AUSA Karamigious did not lie to you

6 b. AUSA Karamigious said, which is on the transcript and
7 not altered, I did not open the audio-recordings
8 because of "attorney-client privilege."

9 c. Mr. Greene attempted to tell me that she said did not
10 open the audio-recording

11 d. This is crime under 18 USC § 241

12 e. As I told Mr. Barrios and Mr. Moore, it is their duty

13 f. Mr. Greene told me to write a book...no, Your Honor
14 committed a crime and helped Randi/UFT rob me

15 11. Mr. Silverman told me that the case is over and will
16 not inform Your Honor of AUSA Karamigious' misconduct, but
17 my conviction will be overturned because of the structural
18 error for Your Honor depriving me of my choice of lawyer.

19 a. This is crime under 18 USC § 241

20 12. I told Mr. Silverman that there are no safeguards in
21 the plea if either my lawyer or probation impedes me from
22 law enforcement or the court, like everyone I spoke to
23 outside of the 2d. Cir. understood

24 13. Ignoring the facts or poo, pooing my claims shows that
25 Your Honor is not neutral, and that Randi Weingarten paid
26 you because I have what people said outside of the 2d.
27 Cir., like I have what Your Honor said and is omitted with
28 the fact that Your Honor yelled at me for telling the about
you and Sen. Schumer, but you allowed Mr. Silverman to rob
me of \$30,000 because Randi Weingarten paid you

a. I sent senators audio-recordings of Your Honor and
Judge Donnelly

1 b. Your Honor can say whatever you want about me lying
2 about the US Marshalls, but the fact remains Your
3 Honor and AUSA Karamigious covered up what the US
4 Marshalls did to me, which was to deny me of a fair
5 trail

6 c. NOTHING will change what was said to me

7 d. Remember, what Your Honor did to me is a crime and
8 does not only "appear" because of what I have audio-
9 recorded

10 14. Your Honor allowed Mr. Silverman to deprive me of my
11 intent, which is a crime under 18 USC § 241 and it appears
12 that Your Honor does not understand that EVERYONE outside
13 of the 2d. Cir. said so...the only difference is Randi
14 Weingarten paid you with the help of Sen. Schumer.

15 15. Your Honor and Judge Donnelly covered up the fact that
16 I was illegally detained and AGAIN, 80 DOJ said it was a
17 crime and I even told Your Honor described by denying
18 someone due process is a crime, which led to me being
19 deprived of money.

20 Remedy:

21 1. To have a nonbiased judge, who is not paid by Randi
22 Weingarten and/or influenced by Sen. Schumer, to review the
23 record and allow me to fully develop a record of criminal
24 activity of Mr. Silverman with all of my audio-recordings.

25 2. To modify my terms of probation to contact Judicial Council
26 and 2d. Cir. (or only Chief Judge Livingston) for what
27 happened to me during this sham of a trial.

28 a. And to have my appeal transferred outside of the 2d.
 Cir.

 3. Your Honor used his office for Randi Weingarten and Sen.
 Schumer

1 4. Safeguards enacted when my lawyer or probation impedes me
2 from law enforcements or the court

3 5. Unseal documents so the public knows that Your Honor used
4 his office for Randi Weingarten (who paid you) with the
5 help of Sen. Schumer and I sent the senators the sealed
6 documents

7 6. I need to contact directly DOJ about DOJ a

8 **Please Take Notice**, the 80 DOJ personnel said that Judge
9 Donnelly was covering up the misconduct AUSA and my lawyer

10 Please inform me if Your Honor requires a proper Rule 60 because

11 a) each one can be a separate write up

12 b) there are more claims

13
14 I know Your Honor is not stupid and if 80 DOJ personnel, who
15 were not paid by Randi Weingarten or influenced by Sen. Schumer,
16 then Your Honor with the AUSAS of the ENDY know too. Facts are
17 facts, but the only thing that has changed is the fact that
18 Randi paid you, rather the "appearance" → I don't know
19 for sure

20 You need to be ashamed of yourself to allow Randi to pay you
21 to deprive me of a fair trial...it is my intent and not yours or
22 Mr. Silverman's intent. In *Tumey v. Ohio* [e]very procedure
23 which would offer a possible temptation to the average man as a
24 judge to forget the burden of proof . . . or which might lead
25 him not to hold the balance nice, clear, and true between the
26 state and the accused denies the latter due process of law 273
27 U.S. 510 (1927). **Please Take Notice**, Your Honor forgot
28 (deliberately because of Randi Weingarten and Sen. Schumer) that
my intent, which I describe my right fully under seal and

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1 congress has it too, is part of the burden of proof, so this is
2 another reason for rule 60. Then, unlike the common law recusal
3 standard, due process requires that all surrounding
4 circumstances and relationships be considered. In re Murchison,
5 349 U.S. 133, 136 (1955). So, this is another reason to look at
6 what Your Honor said to me about Sen. Schumer and facts related
7 to my intent.
8
9

10 I know what should be done and Your Honor knows what should
11 be done, but I can see other outcomes that further deprive me of
12 my constitutional rights, ~~rather the words should be "I know."~~
13
14

15 
16 Lucio Celli

17 ~~September 22, 2021~~

18 11/21/21
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21 Dated this 11th of October, 2021.
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Lucio Celli, Defendant

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MOTION FOR FRAUD UPON THE COURT: BIAS JUDGE - 10

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